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Counsel for Plaintiff P.C. Richard & Son Long Island Corporation

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re: Cathode Ray Tube (CRT)
ANTITRUST LITIGATION

Master File No. 3:07-md-05944-SC

MDL No. 1917

This Document Relates To Individual Case No.
3:12-cv-02648-SC

P.C. RICHARD & SON LONG ISLAND
CORPORATION, et al.,

Plaintiffs,

vs.

HITACHI, LTD., et al.,

Defendants.

**THOMAS POHMER DECLARATION IN
SUPPORT OF DIRECT ACTION
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT BASED UPON
PLAINTIFFS' PURPORTED FAILURE
TO DISTINGUISH BETWEEN
ACTIONABLE AND NON-ACTIONABLE
DAMAGES UNDER THE FTAIA**

Judge: Hon. Samuel P. Conti
Court: Courtroom 1, 17th Floor
Date: February 6, 2015
Time: 10:00 a.m.

1 I, Thomas Pohmer, hereby declare as follows:

2 1. I am currently the Chief Financial Officer of P.C. Richard & Son Long Island
3 Corporation ("P.C. Richard"). I make this declaration based on my personal knowledge.

4 2. I gave corporate representative testimony on behalf of P.C. Richard in this action,
5 and testified on P.C. Richard's behalf as to its practices for purchasing and acquiring CRT
6 Products during the Relevant Period of 1995 through 2007.

7 3. During the Relevant Period, P.C. Richard made its purchases of CRT Products
8 exclusively from locations in the United States, as reflected at pages 137 to 140 of P.C.
9 Richard's corporate representative deposition testimony, a true and correct copy of which is
10 attached hereto as Exhibit 1.

11 4. During the Relevant Period, P.C. Richard purchased CRT Products exclusively
12 from vendors which were within the United States, as reflected at page 140 of P.C. Richard's
13 corporate representative testimony, a true and correct copy of which is attached hereto as
14 Exhibit 2.

15 5. During the Relevant Period, P.C. Richard purchased CRT Products directly from
16 Defendants, co-conspirators and their affiliates, all of which were located in the United States,
17 as reflected in the purchase data P.C. Richard produced in this litigation.

18 6. P.C. Richard's vendors, including Defendants, co-conspirators and their affiliates,
19 shipped these CRT Products to P.C. Richard's locations in the United States, as reflected at
20 pages 99 to 100 of P.C. Richard's corporate representative testimony, a true and correct copy of
21 which is attached hereto as Exhibit 3.

22 I declare under penalty of perjury that the foregoing is true and correct.

23 Executed this 19th day of December, 2014, at 150 Prize Parkway, Farmingdale NY

24
25 By: 

26 Thomas Pohmer
27
28

Exhibit 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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In Re: CATHODE RAY TUBE (CRT))	
ANTITRUST LITIGATION,)	
)	
Plaintiff,)	
-----)	Case No.
)	07-5944 Sc
)	MDL No. 1917
This Document Relates to:)	
)	
ALL ACTIONS,)	
)	

CONFIDENTIAL TRANSCRIPT
VIDEOTAPED DEPOSITION OF THOMAS P. POHMER
November 12, 2013

Balinda Dunlap, CSR No. 10710,
*RPR, CRR, RMR
366226

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YEARS

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1 price guarantees. You've got people coming in
2 trying to negotiate the price.

3 So it's all over the place all the time.
4 So it changes by manufacturer by manufacturer, year
11:50 5 by year, and month by month.

6 Q. BY MR. FOSTER: Okay. Do you ever recall
7 a time -- oh, I'm sorry.

8 A. Also the economy, I mean, you know, if the
9 economy gets -- it's tough, you know, that might
11:50 10 affect prices, or if the economy's good, that might
11 affect prices. You have seasonality. You have a
12 lot of different factors affecting it, so...

13 Q. Do you ever -- do you recall a time
14 between '95 and 2007 when prices of CRT finished
11:50 15 products increased?

16 MR. TIETJEN: Objection to the form.

17 THE WITNESS: I don't know of any.

18 Q. BY MR. FOSTER: Where did the negotiation
19 between the -- a buyer, P.C. Richard buyer and a
11:51 20 vendor, where did the -- the price negotiations
21 between those people take place?

22 A. At our office.

23 Q. Always at your office?

24 A. 99.9 percent of the time.

11:51 25 Q. Okay. Would they be in person?

1 A. I would think most of the time, yes.

2 Q. Okay. So a vendor, a CRT finished product
3 vendor would come -- would come to P.C. Richard's
4 corporate office to negotiate the -- the sale of
11:51 5 CRT finished products; is that fair?

6 A. Yes.

7 Q. Were -- sometimes, were those negotiations
8 over the phone?

9 A. Could have been, but most of the time the
11:52 10 salespeople are in the office.

11 Q. Okay. Could some of those negotiations
12 have been over email?

13 A. Possibly.

14 Q. Do you think some of them might have been
11:52 15 over fax? I know it's been -- it was '95 to 2007,
16 so they were still using fax, probably, in the
17 '90s?

18 A. Possibly. I would think most of the
19 negotiations happened in the office. If it was
11:52 20 anything by email or fax, it was probably just a
21 clarification or something.

22 Q. Okay. Maybe portions of the negotiations
23 might have occurred over these other --

24 MR. TIETJEN: Objection to the form.

11:52 25 THE WITNESS: -- a portion of it.

1 MR. TIETJEN: Wait till the question is
2 done.

3 THE WITNESS: Okay.

4 Q. BY MR. FOSTER: Go ahead. I was done.

11:52 5 A. Ask the question again.

6 Q. Yeah, sure. Would you say that maybe
7 portions of these negotiations might have been
8 accomplished over email or fax or phone?

9 A. Small portions.

11:53 10 Q. Okay. Would the P.C. Richard buyers ever
11 travel to the vendor to negotiate the purchase of
12 CRT finished products?

13 MR. TIETJEN: Objection to the form.

14 THE WITNESS: I don't think so.

11:53 15 Q. BY MR. FOSTER: You don't -- you don't --
16 do you think that that never happened?

17 A. Again, it's one of those 99.9 percent of
18 the time, I think it's done in our office.

19 Q. Okay. Do you recall the -- I'm sorry.

11:53 20 Did the buyers ever visit the vendors, the
21 CRT finished product vendors for any reason?

22 A. Yeah, to look at new models, a new line
23 coming out.

24 Q. Okay. Any other reasons?

11:53 25 A. No, not that I can think of.

1 Q. Okay. Did they -- did the P.C. Richard
2 buyers ever travel outside the United States to
3 visit a CRT finished product manufacturer --
4 vendor, sorry?

11:54 5 MR. TIETJEN: Objection -- I'm sorry.

6 MR. FOSTER: I'm sorry. Let me -- let me
7 restate my question. I apologize.

8 Q. Did a P.C. Richard buyer ever travel
9 outside the United States to visit a CRT finished
11:54 10 product vendor?

11 A. I don't think so.

12 Q. Do you know where the CRT finished product
13 vendors were located that -- from whom P.C. Richard
14 purchased products during the 1995 to 2007 period?

11:54 15 MR. TIETJEN: Objection to the form.

16 THE WITNESS: We just dealt with people in
17 the U.S.

18 Q. BY MR. FOSTER: Okay. How do you know
19 they were in the U.S.?

11:54 20 A. Because we know them.

21 You mentioned before Mike Feher. You
22 mentioned -- all those guys that are the salesmen
23 are the people we negotiate with, and they are in
24 the U.S.

11:55 25 Q. Okay. Can you tell me where they were

Exhibit 2

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

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 ANTITRUST LITIGATION,

Plaintiff,

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Exhibit 3

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Case No.
07-5944 SC
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1 negotiated on a product-by-product basis?

2 A. It would be -- the manufacturer would tell
3 us how he was delivering it.

4 Q. Okay. But you maybe would -- would all
11:08 5 the products that P.C. Richard purchased, would
6 they all go to one place or would they sometimes go
7 to different places?

8 A. It could go -- we have three warehouses.

9 Q. Okay.

11:08 10 A. And it could go to any one of the three
11 warehouses.

12 Q. Okay.

13 MR. TIETJEN: Was that during the relevant
14 period?

11:08 15 THE WITNESS: No. There were two
16 warehouses during the relevant period, yes.

17 Q. BY MR. FOSTER: Okay. Two warehouses
18 from -- thank you, Bob. From 1995 to 2007, two
19 warehouses?

11:08 20 A. Yes.

21 Q. Okay. And so P.C. Richard would say,
22 "Send to it this warehouse or send it to the other
23 warehouse"; is that fair?

24 A. Yes.

11:08 25 Q. Okay. Did -- was there any other -- was

1 there ever any other option besides those two
2 warehouses between the -- within that period?

3 MR. TIETJEN: Objection to the form.

4 THE WITNESS: I don't think so.

11:08 5 Q. BY MR. FOSTER: Would P.C. Richard ever
6 tell the manufacturer to ship it straight to the
7 customer?

8 A. In a very rare instance.

9 Q. But it might have?

11:09 10 A. Maybe one piece here or one piece there.
11 A couple of pieces a year -- I don't know --
12 because of an emergency a customer was having.

13 Q. Okay. Okay.

14 A. But I can't think of anywhere where that
11:09 15 would happen.

16 Q. Okay. What about who would pay the
17 freight on the delivery, would that be something
18 that's negotiated on a product-by-product basis?

19 A. No, I think that would be part of the
11:09 20 dealer agreement.

21 Q. Okay. But if it was a manufacturer -- if
22 it was a vendor with -- with whom you did not have
23 a dealer agreement, how would that be negotiated?

24 A. I think it would be negotiated up front as
11:09 25 to how that's working.